

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DARYL D. BOCOOK,

Plaintiff,

v.

DR. EDDY, *et al.*,

Defendants.

:

Case No. 2:23-cv-3481

Judge Sarah D. Morrison

Magistrate Judge Kimberly A.

Jolson

:

ORDER

Plaintiff Daryl D. Bocook is an Ohio inmate proceeding without assistance of counsel. (ECF No. 13.) Although he is incarcerated at the Virginia Department of Corrections (“VDOC”), Mr. Bocook brings claims against Annette Chambers-Smith (the Director of the Ohio Department of Rehabilitation and Correction (“ODRC”)) and Dr. Eddy (a ODRC physician). (*Id.*) He alleges that Director Chambers-Smith and Dr. Eddy violated his constitutional rights during his confinement within the VDOC. (*See generally* Am. Compl.) This matter is before the Court on three Reports and Recommendations.

First is the January 17, 2024 Report and Recommendation. (R&R, ECF No. 13.) There, the Magistrate Judge performed an initial screen of the Complaint pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A and recommended that the Court permit Mr. Bocook to proceed on his Eighth Amendment claim that Director Chambers-Smith and Dr. Eddy denied him approval for necessary medical treatment at VDOC, except to the extent that Mr. Bocook seeks monetary damages.

(*Id.*, PAGEID # 59–60.) The Magistrate Judge determined that all other claims must be dismissed for failure to state a claim upon which relief may be granted.

(*Id.*, PAGEID # 60–61.) The Magistrate Judge also determined that Mr. Bocook’s remaining allegations about his inability to access Ohio legal materials, punishments for requesting help with his opiate addiction, and the disclosure of his confidential patient information were asserted against unnamed VDOC officials and should be dismissed without prejudiced. (*Id.*)

The second Report and Recommendation (R&R, ECF No. 24) concerns Mr. Bocook’s Motion to Amend and Revision Claims 3, 4, & 5 (Mot., ECF No. 22). The Magistrate Judge reasoned that Mr. Bocook failed to provide a complete copy of the proposed amended complaint, he did not appear to allege any new claims against Defendants Chambers-Smith or Eddy, and he did not identify any new defendants. (*Id.*, PAGEID # 275.) So the Magistrate Judge recommended that the Court adopt the January 17, 2024 Report and Recommendation and deny Mr. Bocook’s Motion to Amend for failure to meet the particularity requirements of Federal Rule of Civil Procedure 7(b). (ECF No. 24.)

Mr. Bocook then filed another Motion to Amend. (Mot., ECF No. 25.) He also filed a Motion for Extension of Time, requesting sixty additional days to research the Magistrate Judge’s Reports and Recommendations (ECF No. 29), and a Motion of Objections to Report and Recommendation that included two copies of his previously filed Motions to Amend. (Mot., ECF No. 30.) The third Report and Recommendation addresses these Motions. (*See* R&R, ECF No. 31.)

In the third Report and Recommendation, the Magistrate Judge recommends that the Court adopt the two previous Reports and Recommendations, deny the Motion to Amend, and deny as moot Mr. Bocook's Motion for Objections. (*Id.*) The Magistrate Judge noted that Mr. Bocook had again failed to attach an amended complaint and concluded that his remaining claims fail because they are asserted against unnamed VDOC officials. (*Id.*, PAGEID # 313.) The Magistrate Judge also extended the deadline for Mr. Bocook to file his objections and denied as moot Mr. Bocooks Motion of Objections of Report and Recommendation, which is not an objection but seeks to improperly amend his claims. (*Id.*, at PAGEID # 314–15.)

I. ANALYSIS

If a party objects within the allotted time to a report and recommendation, the Court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Upon review, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Mr. Bocook was advised of his right to object to all three Reports and Recommendations and the consequences of failing to do so. Although the Court granted him an extension to file objections (*See* ECF No. 31), the time for filing objections as extended has passed, and no objections have been filed.

II. CONCLUSION

The Court **ADOPTS** and **AFFIRMS** the Magistrate Judge's Reports and Recommendations. (ECF Nos. 13, 24, 31.) Mr. Bocook's Motion to Amend and

Revision Claims, 3, 4, and 5 (ECF No. 22) and his Motion to Amend (ECF No. 25) are **DENIED**. Mr. Bocook's Motion for Extension of Time (ECF No. 29) is **GRANTED IN PART** and **DENIED IN PART**, and his Motions for Objections (ECF No. 30) is **DENIED as MOOT**.

Mr. Bocook may proceed on his Eighth Amendment claim against Defendants Director Chambers-Smith and Dr. Eddy, except that any official capacity claims against these defendants for monetary damages are **DISMISSED WITH PREJUDICE**. All of Mr. Bocook's remaining claims are **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

/s/ Sarah D. Morrison
SARAH D. MORRISON
UNITED STATES DISTRICT JUDGE